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15
16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

19 ROBERT CRAGO, Individually and on
20 Behalf of All Others Similarly Situated,

21 Plaintiff,

22 v.

23 CHARLES SCHWAB & CO., INC., and THE
24 CHARLES SCHWAB CORPORATION,

25 Defendants.

26 Case No. 3:16-cv-03938-RS

27 **CLASS ACTION**

28 **PLAINTIFFS' MOTION FOR
ADMINISTRATIVE RELIEF TO SEAL
CONFIDENTIAL INFORMATION**

Hon. Richard G. Seeborg

1 Lead Plaintiffs Robert Wolfson (“Wolfson”) and Frank Pino (“Pino”), and named plaintiff
 2 K. Scott Posson (“Posson”) (together, “Plaintiffs”), hereby move pursuant to Local Rules 7-11 and
 3 79-5 for administrative relief in the form of an order sealing information contained in Plaintiffs’
 4 Motion for Class Certification and supporting documents that has been designated as confidential
 5 pursuant to the Stipulated Protective Order entered in this action (Dkt. No. 130).

6 In support of this motion to seal, and in accord with Local Rules 7-11 and 79-5, Plaintiffs
 7 are filing:

- 8 • A declaration identifying the information designated as confidential and the
 designating party, along with proof of service on the designating parties;
- 9 • A proposed order listing each document or portion thereof sought to be sealed;
- 10 • A stipulation among the parties consenting to the sealing of information designated
 as confidential;
- 11 • Redacted versions of the documents sought to be partially sealed; and
- 12 • Unredacted versions of the documents sought to be sealed in whole or in part.

13 The information that Plaintiffs seek to seal falls into two categories. First, information
 14 produced by and designated as confidential by Defendants or non-party UBS Securities LLC.
 15 Pursuant to Local Rule 79-5(e), the designating parties may file declarations within four days of
 16 the filing of this motion to seal, establishing that the designated material is sealable.
 17

18 Second, Plaintiffs seek to seal portions of Plaintiffs’ deposition transcripts that contain (i)
 19 personally identifiable information such as home addresses and email addresses, or (ii) narrowly
 20 limited amounts of sensitive personal information in which the Plaintiffs have strong privacy
 21 interests and which are not relevant to this action.

22 “Every court has supervisory power over its own records and files, and may provide access
 23 to court documents at its discretion. District courts therefore have authority to seal and unseal
 24 court records, a power that derives from their inherent supervisory power.” *Brightwell v. McMillan*
 25 *Law Firm*, No. 16-cv-1696, 2018 WL 1306380, at *1 (S.D. Cal. Mar. 13, 2018) (quotes and
 26 citations omitted) (citing *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995)).
 27 “Historically, courts have recognized a general right to inspect and copy public records and

1 documents, including judicial records and documents.” *Kamakana v. City and County of*
 2 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quote and citation omitted). “Nonetheless, access
 3 to judicial records is not absolute.” *Id.* When deciding an application to seal, “the court must
 4 conscientiously balance the competing interests of the public and the party who seeks to keep
 5 certain judicial records secret.” *Id.* at 1179 (quotes and citation omitted).

6 A party seeking to seal court records may do so by meeting either a “compelling reasons”
 7 standard (in the case of documents related to dispositive motions that go to the heart of the
 8 public’s interest in understanding the judicial process), or a less demanding “good cause” standard
 9 (in the case of documents related to non-dispositive motions or tangential to the merits of a case).
 10 See *Kamakana*, F.3d at 1179-80. Even under the more demanding of these standards, “[w]hat
 11 constitutes a compelling reason is best left to the sound discretion of the trial court. Examples
 12 include when a court record might be used to gratify private spite or promote public scandal, to
 13 circulate libelous statements or as sources of business information that might harm a litigant’s
 14 competitive standing.” *Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th
 15 Cir. 2016) (quotes and citations omitted).

16 Courts in this Circuit often grant applications to seal confidential portions of deposition
 17 transcripts, and briefs discussing confidential deposition testimony. E.g., *Whitewater West*
 18 *Industries, Ltd. v. Pacific Surf Designs, Inc.*, No. 17-cv-1118, 2018 WL 3055938, at *4 (S.D. Cal.
 19 June 14, 2018) (ordering sealed portions of brief that quote from confidential deposition
 20 transcripts); *Nicolosi Distributing, Inc. v. Finishmaster, Inc.*, No. 18-cv-3587, 2018 WL 3932554,
 21 at *3 (N.D. Cal. Aug. 16, 2018) (finding compelling reasons to seal portions of deposition
 22 transcript discussing confidential business practices). Likewise, courts in this Circuit often grant
 23 applications to seal information of a similar nature to that sought to be sealed by Plaintiffs here.
 24 E.g., *Am. Automobile Ass’n of Northern California v. General Motors LLC*, No. 17-cv-3874, 2019
 25 WL 1206748, at *2 (N.D. Cal. Mar. 14, 2019) (finding compelling reasons to seal, *inter alia*,
 26 “personally identifiable information”).

27 Therefore, Plaintiffs respectfully request that the Court grant their motion to seal the
 28 information identified in the accompanying declaration and proposed order.

1 Dated: April 30, 2021

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PROOF OF SERVICE

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On April 30, 2021, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Northern District of California, for receipt electronically by the parties listed on the Court's Service List.

In addition, I served true and correct copies of the foregoing document, by email on
counsel for non-party UBS Securities LLC, at the following addresses:

david.goldberg@kattenlaw.com

patrick.smith@kattenlaw.com

anna.mikulski@kattenlaw.com

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 30, 2021, at Los Angeles, California.

s/ Garth A. Spencer
Garth A. Spencer